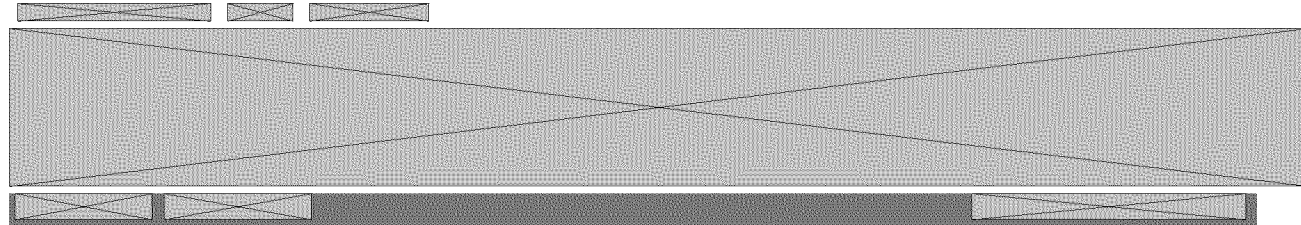


To: Doster, Brian[Doster.Brian@epa.gov]
From: BNA Highlights
Sent: Thur 3/6/2014 9:05:24 PM
Subject: Mar 6 -- BNA, Inc. Daily Environment Report - Latest Developments

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Latest Developments

Energy Department Advisory Board Recommends 'Full Disclosure' of Fracking Fluid Chemicals

Posted March 06, 2014, 11:37 A.M. ET

An Energy Department advisory board recommends "full disclosure of all known constituents" of fluids used in hydraulic fracturing, according to a report made public March 5.

The report by the Secretary of Energy Advisory Board (SEAB) Task Force on FracFocus said that state and federal regulators should adopt standards for companies making trade secret claims for fracking fluid ingredients and establish an accompanying compliance process and challenge mechanism.

FracFocus is a Web-based registry of chemicals used at oil and gas wells that employ hydraulic fracturing to enhance production.

"A 'systems approach' that reports the chemicals added separately from the additive names and product names that contain them, generally should provide adequate protection of trade secrets," the report said.

The value of FracFocus has been much debated, with critics saying it fails to disclose enough information about the chemical additives used along with water and sand in fracking fluids.

Many companies provide information to the site voluntarily. In some states, such as Colorado and Utah, posting information on FracFocus has been made mandatory. The Interior Department is considering whether to make posting on the site mandatory for companies drilling on federal lands.

House Passes Bill to Curtail EPA Authority to Regulate Greenhouse Gas Emissions From Power Plants

Posted March 06, 2014, 12:05 P.M. ET

The House, by a vote of 229-183, today approved a bill to curtail the Environmental Protection Agency's authority to move forward with carbon dioxide (CO2) limits on power plants, regulatory action central to President Barack Obama's efforts to address climate change.

The Electricity Security and Affordability Act (H.R. 3826), authored by Rep. Ed Whitfield (R-Ky.), is considered a top

2014 priority for Republicans, who moved it through the House Energy and Commerce Committee in January.

Prospects for passage in the Senate are unclear. Sen. Joe Manchin (D-W.Va.) introduced a companion bill (S. 1905) to the Whitfield measure in January, but many Senate Democrats are likely to oppose the bill, particularly given the White House veto threat issued March 4.

The House approved by voice vote four Republican amendments and voted down four Democratic amendments, including one from Rep. Jan Schakowsky (D-Ill.) which would have accepted the EPA's finding that greenhouse gas emissions contribute to long-lasting changes in the climate. It fell by a vote of 190-221.

Senate Committee to Mark Up Drinking Water Protection Bill April 2

Posted March 06, 2014, 11:35 A.M. ET

Sen. Barbara Boxer (D-Calif.) says at a Senate Environment and Public Works Committee hearing that a markup of the Chemical Safety and Drinking Water Protection Act (S. 1961) will be held on April 2.

That legislation, sponsored by Sens. Joe Manchin (D-W.Va.), Jay Rockefeller (D-W.Va.) and Boxer, would set construction standards and other requirements for chemical storage sites located near sources of drinking water, require inspection of the facilities every three to five years and require owners of chemical storage facilities to share information with drinking water utilities.

The legislation comes in response to a January chemical spill in Charleston, W.Va., that left some 300,000 residents without drinking water for several days.

Chemical Safety Board Chairman Endorses Inherently Safer Technologies

Posted March 06, 2014, 11:33 A.M. ET

Rafael Moure-Eraso, chairman of the U.S. Chemical Safety and Hazard Investigation Board, said March 6 that the Environmental Protection Agency should use its authority under the Clean Air Act to require companies to use inherently safer technologies "as an interim measure."

Requiring inherently safer technologies could have prevented or reduced the consequences of the Jan. 9 chemical spill in West Virginia that left some 300,000 residents without drinking water, Moure-Eraso said at a Senate Environment and Public Works Committee hearing.

Industry groups, including the American Chemistry Council, the American Forest and Paper Association, the American Petroleum Institute and the U.S. Chamber of Commerce, urged the rejection of mandatory inherently safer technologies in a Jan. 23 letter to President Barack Obama and an interagency group tasked with improving chemical safety and security.

Inherently safer technologies are those that reduce the risks of chemical manufacturing, processing and storage by simplifying process design, replacing hazardous chemicals with others that are safer, limiting hazardous conditions and minimizing the amounts of hazardous materials used and stored.

Rail Advisory Panel to Recommend Safety Improvements by April 1

Posted March 06, 2014, 3:41 P.M. ET

A Railroad Safety Advisory Committee working group expects to present recommended safety improvements for the transport of hazardous liquids to the full committee by April 1, according to an official with the Federal Railroad Administration.

Karl Alexy, staff director of the FRA's Hazardous Materials Division, said March 6 that he expects the committee's Hazardous Materials Issues Working Group to soon reach a consensus on safety recommendations, which would allow the full federal advisory committee to vote on those recommendations.

Alexy, speaking at a RSAC meeting in Washington, D.C., said he hopes the working group will have recommendations for the full advisory panel to consider following a scheduled March 26 working group meeting.

The FRA in August 2013, one month after a July derailment in Lac-Mégantic, Quebec, that resulted in 47 fatalities, requested that the hazardous materials working group develop recommended regulatory language to improve the safety of transporting hazardous materials by rail.

The FRA specifically tasked the working group with developing recommended regulatory language for special handling requirements and routing requirements for trains that carry certain types and quantities of hazardous materials, as well as regulatory language for the accurate, efficient and proper frequency of testing flammable liquids, including crude oil and ethanol, before rail tank cars are loaded.

FRA Administrator Joseph Szabo, also speaking at the March 6 RSAC meeting, said the FRA would like to see input from the advisory committee, but cautioned that the agency set a “firm” April 1 deadline for the working group to complete work on those recommendations.

“On April 1, FRA is moving forward, with or without you,” Szabo said.

The RSAC adopted a motion that will allow the full committee to hold an electronic vote on any recommendations that come out of the hazardous materials working group, since the committee’s next meeting will not be for several months.

Oil From Shale ‘More Volatile,’ Railroad Association Head Testifies

Posted March 06, 2014, 11:52 A.M. ET

Oil produced from shale contains more highly combustible natural gas liquids such as methane and butane, making it “more volatile” than other kinds of oil, the head of the Association of American Railroads testified March 6, citing discussions with the Pipeline and Hazardous Materials Safety Administration.

Edward R. Hamberger’s testimony before the House Energy and Commerce Subcommittee on Energy and Power came in response to a question about a series of high profile rail accidents involving transporting crude oil by rail, such as the July 2013 derailment in Lac-Mégantic, Quebec, that resulted in 47 fatalities.

Hamberger said PHMSA is “still contemplating” issuing new tank car regulations to accommodate increased shipments of oil from shale.

Interagency Chemical Group Says Unified Contingency Plan Could Be Revived

Posted March 06, 2014, 3:59 P.M. ET

The Obama administration’s interagency chemical safety working group said March 6 the government should consider whether to revive a unified, integrated contingency reporting form that chemical facilities would use to comply with multiple federal emergency planning requirements.

The Federal Integrated Contingency Plan, also known as the “One Plan,” could decrease duplication and streamline information collection, the working group said.

The proposal to potentially revive the One Plan came in a [seven-page fact sheet](#) laying out six key goals for boosting coordination among stakeholders, particularly local emergency responders, emergency planning committees, chemical facility operators and residents.

The working group, which the Obama administration created in response to the April 2013 fatal explosion at a fertilizer facility in Texas, is accepting public comment on the goals and action items outlined in its fact sheet.

EPA Seeks Remand of Reconsidered Mercury/Toxics Rule for New Power Plants

Posted March 06, 2014, 2:13 P.M. ET

The Environmental Protection Agency is asking a federal appeals court to remand a rule on reconsidered limits for mercury and air toxics from new coal- and oil-fired power plants because of questions on the methodology used to set the limits (*Chesapeake Bay Found. v. EPA*, D.C. Cir., No. 13-1200, motion filed 3/5/14).

The EPA set the maximum achievable control technology (MACT) standards based on the performance of only six

sources. In a March 5 [motion](#) filed in the U.S. Court of Appeals for the District of Columbia Circuit, the agency said the question of whether its methodology “is an appropriate statistical method for small data sets requires more analysis.”

The motion was prompted by the D.C. Circuit's decision in August 2013 in a separate case challenging air pollution standards for sewage sludge incinerators. The Clean Air Act requires the EPA to establish a MACT minimum stringency level for a source category based on the emissions of the best-performing units.

However, in the sludge incinerator rule, instead of collecting emissions data from all sources, the agency collected emissions information from only some units and used a statistical analysis to fill in data gaps. The court remanded portions of the rule for further explanation because of the statistical methodology (*Nat'l Ass'n of Clean Water Agencies v. EPA*, D.C. Cir., No. 11-1131, 8/20/13).

In light of that decision, the EPA said remanding the power plant rule now without vacatur would save the court's time because that rule also was based on a small data set.

The power plant rule, which the EPA published in April 2013, reconsidered the original limits for new power plants set in February 2012. The reconsidered rule set a mercury emissions limit of 0.003 pound per gigawatt-hour for new coal-fired power plants that are not designed to burn low-rank virgin coal—a change from the original standard of 0.0002 pound per gigawatt-hour, which industry complained was too low to accurately detect.

Separately, the EPA filed motions Feb. 28 asking the D.C. Circuit to remand air pollution standards for boilers and incinerators for similar methodology reasons.

The March 5 motion is available at

[http://www.bloomberglaw.com/public/document/Chesapeake Bay Foundation Inc et al v EPA et al Docket No 1](http://www.bloomberglaw.com/public/document/Chesapeake%20Bay%20Foundation%20Inc%20et%20al%20v%20EPA%20et%20al%20Docket%20No%201)
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